

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**INTERNATIONAL LONGSHOREMEN'S ASSOCIATION  
LOCAL UNION NO. 1402, AFL-CIO  
(CERES MARINE TERMINALS, INC.)**

**and**

**Case 12-CB-225882**

**ERNEST RICHARDS, JR.**

**and**

**Case 12-CB-226328**

**JOSEPH ROLFE**

**INTERNATIONAL LONGSHOREMEN'S ASSOCIATION,  
LOCAL 1402, AFL-CIO  
(LOGISTEC USA, INC.)**

**and**

**Case 12-CB-226103**

**STEPHEN WHITEHEAD**

**and**

**Case 12-CB-229319  
12-CB-230177**

**DERRICK JOHNSON**

**DECISION AND ORDER**

Statement of the Cases

On November 27, 2019, International Longshoremen's Association Local Union No. 1402, AFL-CIO (the Respondent); Charging Parties Ernest Richards, Jr., Joseph Rolfe, Stephen Whitehead, and Derrick Johnson; and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington,

D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

### **Findings of Fact**

#### **1. Business of Ceres Marine Terminals, Inc.**

(a) At all material times, Ceres Marine Terminals, Inc. (Ceres), a Maryland corporation with an office and place of business in Tampa, Florida and other places of business in the United States, has been engaged in the business of loading and unloading passengers and freight and providing other stevedoring services.

(b) During the past 12 months, Ceres, in conducting the business operations described above, derived gross revenues in excess of \$50,000 for the transportation of passengers and freight in interstate commerce under arrangements with and as agent for various common carriers, each of which operates between various states of the United States, and between the State of Florida and foreign countries. Based on the operations described above, Ceres functions as an essential link in the transportation of freight in interstate commerce.

(c) At all material times, Ceres has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

#### **2. Business of Logistec USA, Inc.**

(a) At all material times, Logistec USA, Inc. (Logistec), a Delaware corporation with an office and place of business at Port Manatee, Florida and other places of business in the United States, has been engaged in the business of loading and unloading palletized and containerized fruit and other cargoes, and providing other stevedoring services.

(b) During the past 12 months, Logistec, in conducting its business operations described above, derived gross revenues in excess of \$50,000 for the transportation of freight in interstate commerce under arrangements with and as agent for various common carriers, each of which operates between various states of the United States, and between the State of Florida and foreign countries. Based on its operations described above, Logistec functions as an essential link in the transportation of freight in interstate commerce.

(c) At all material times, Logistec has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

### 3. The labor organization involved

At all material times, International Longshoremen's Association, Local Union No. 1402, AFL-CIO (the Respondent) has been a labor organization within the meaning of Section 2(5) of the Act.

## ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, International Longshoremen's Association, Local Union No. 1402, AFL-CIO, Tampa, Florida, its officers, agents, and representatives, shall:

#### 1. Cease and desist from:

(a) Failing or refusing to refer hiring hall users to work according to its collective-bargaining agreements and based on objective and established hiring hall rules and procedures.

(b) Failing or refusing to refer hiring hall users for employment with Ceres Marine Terminals, Inc., or Logistec USA, Inc., employers with whom it has an exclusive hiring hall relationship, or causing those employers not to employ hiring hall users, for reasons that are arbitrary, discriminatory, or in bad faith.

(c) Failing or refusing to timely respond to employee requests for information regarding the status of their grievances against any employers with which it has collective-bargaining relationships.

(d) Unilaterally removing an employee from Logistec USA, Inc.'s core gang.

(e) Failing or refusing to process the grievances of employees it represents for reasons that are arbitrary, discriminatory, or in bad faith, or processing grievances in a perfunctory manner.

(f) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

#### 2. Take the following affirmative action:

(a) Within 14 days from the date of the Board's Order, the Respondent will make whole the employees named below for the loss of wages they suffered as a result of the Respondent's failure and refusal to refer them to work with Ceres Marine Terminals, Inc. on July 18, 2018, by payment to the employees of the amounts of backpay, interest, and compensation for excess tax liability set forth below opposite their respective names. No deductions shall be made from these amounts.

<b>Name</b>	<b>Backpay</b>	<b>Interest</b>	<b>Excess Tax</b>
Robert Cato	\$477.00	\$15.00	\$22.00
Frank Crum, Jr.	\$427.00	\$13.00	\$19.00
Lawrence Hemmingway	\$377.00	\$12.00	\$17.00
Charles Richards, Sr.	\$447.00	\$14.00	\$20.00
Ernest Richards, Jr.	\$477.00	\$15.00	\$22.00
Joseph Rolfe	\$477.00	\$15.00	\$22.00

(b) Within 14 days from the date of the Board's Order, the Respondent will make whole employee Derrick Johnson for the loss of wages he suffered as a result of the Respondent's failure and refusal to refer him to work with Logistec USA, Inc. on the ship core gang commonly known as the Doster gang for the period from October 30, 2018 through March 22, 2019, by payment to him of \$2,962.00 in backpay, \$43.00 in interest, and \$5.00 in compensation for excess tax liability. No deductions shall be made from these amounts. The Respondent has referred Derrick Johnson to work for Logistec USA, Inc. in his former position on the ship core gang commonly known as the Doster gang and requested that Logistec USA, Inc. reinstate Derrick Johnson to that position. Logistec USA, Inc. has reinstated Derrick Johnson to that position.

(c) Within 14 days from the date of the Board's Order, Respondent will make whole employee Derrick Johnson for the loss of pension, welfare, vacation and holiday benefits he suffered as a result of Respondent's failure and refusal to refer him to work with Logistec USA, Inc. on the ship core gang commonly known as the Doster gang for the period from October 30, 2018 through March 22, 2019, by contributing \$841.00 on behalf of Derrick Johnson to the Local 1402 (Tampa Banana Handlers) Pension, Welfare, and Vacation/Holiday Fund and directing said Fund to credit Derrick Johnson with 117 hours of seniority credit.

(d) Within 14 days from the date of the Board's Order, request that Logistec USA, Inc. agree to arbitrate a grievance regarding the written warning issued to Stephen Whitehead by Logistec USA, Inc. on or about September 9, 2017, if said grievance cannot otherwise be resolved.

(e) Within 14 days of service by the Region, post at its 707 E. Harrison Street, Tampa, Florida facility, and at all places at the facilities of Ceres in the Port of Tampa, Florida, and of Logistec USA, Inc. in Port Manatee, Florida, where Respondent normally posts notices to employees and members, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by Region 12, after being signed and dated by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material.

(f) Within 14 days after service by the Region, the Respondent shall deliver to the Regional Director for Region 12 signed copies of the notice in sufficient number for posting by Ceres in Port of Tampa, Florida, and Logistec USA, Inc. in Port Manatee, Florida if Ceres and Logistec wish, in all places where notices to employees are customarily posted.

(g) Within 14 days after service by the Region, the Respondent shall distribute copies of the attached notice marked "Appendix," after being signed and dated by the Respondent's authorized representative, to all officers and agents of the Respondent at the Respondent's facility located at 707 E. Harrison Street, Tampa, Florida.

(h) Within 21 days after service by the Region, the Respondent shall file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply.

Dated, Washington, D.C., January 14, 2020

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John F. Ring, Chairman

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Marvin E. Kaplan, Member

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William J. Emanuel, Member

(SEAL)

**NATIONAL LABOR RELATIONS BOARD**

## **APPENDIX**

### **NOTICE TO MEMBERS POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government**

#### **PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER**

#### **FEDERAL LAW GIVES YOU THE RIGHT TO:**

Form, join, or assist a union;  
Choose a representative to bargain with your employer on your behalf;  
Act together with other employees for your benefit and protection;  
Choose not to engage in any of these protected activities.

**WE WILL NOT** fail or refuse to refer you for employment according to the terms of our collective-bargaining agreements with employers and based on objective and established hiring hall rules and procedures.

**WE WILL NOT** fail or refuse to refer you for employment with Ceres Marine Terminals, Inc., or Logistec USA, Inc., or any other employers with which we have an exclusive hiring hall relationship, or cause any of those employers not to employ you, for reasons that are arbitrary, discriminatory, or in bad faith.

**WE WILL NOT** fail or refuse to timely respond to your requests for information regarding the status of your grievances against any employers with which we have collective-bargaining relationships.

**WE WILL NOT** unilaterally remove you from a Logistec USA, Inc. core gang.

**WE WILL NOT** fail or refuse to process the grievances of employees we represent in a manner that is perfunctory, or for reasons that are arbitrary, discriminatory, or in bad faith.

**WE WILL NOT** in any like or related manner restrain or coerce you in the exercise of your rights under Section 7 of the Act.

**WE WILL** make whole Robert Cato, Frank Crum, Jr., Lawrence Hemmingway, Charles Richards, Sr., Ernest Richards, Jr., and Joseph Rolfe for the loss of earnings they suffered because they were not referred for work at Ceres Marine Terminals, Inc., on July 18, 2018.

**WE HAVE** referred Derrick Johnson to work for Logistec USA, Inc. in his former position on the ship core gang commonly known as the Doster gang and requested that Logistec

USA, Inc. reinstate Derrick Johnson to that position. Logistec USA, Inc. has reinstated Derrick Johnson in that position.

**WE WILL** make whole Derrick Johnson for the loss of earnings and benefits he suffered because he was not referred for work with Logistec USA, Inc. from on or about October 30, 2018 until on or about March 22, 2019.

**WE WILL** request that Logistec USA, Inc. agree to arbitrate a grievance regarding the written warning issued to Stephen Whitehead on or about September 9, 2017 by Logistec USA, Inc., if said grievance cannot otherwise be resolved.

**INTERNATIONAL LONGSHOREMEN'S  
ASSOCIATION, LOCAL UNION NO. 1402, AFL-CIO**

The Board's decision can be found at [www.nlrb.gov/case/12-CB-225882](http://www.nlrb.gov/case/12-CB-225882) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half St., S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

